

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM MAY 23, 2012
OPEN SESSION

MINUTES OF MAY 23, 2012 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN LAFAYETTE, LOUISIANA. PRESENT WERE CHAIRMAN FOSTER CAMPBELL, VICE CHAIR JIMMY FIELD AND COMMISSIONERS LAMBERT BOISSIERE, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of May 23, 2012, convening at 10:11 A.M. and adjourning at 1:14 P.M., Council Auditorium, Lafayette Consolidated Government, 705 W University, Lafayette, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Field welcomed everyone to Lafayette and thanked the mayor and city council for allowing us to use their facilities. He also congratulated the Lady Cajun softball team for winning regional's this year.

Commissioner Boissiere reminded everyone that 2012 SEARUC meetings will be June 3-6, 2012 in New Orleans, Louisiana. He further thanked his Staff, as well as the Baton Rouge Staff, for their continued efforts to make this year's SEARUC a success.

Ex. 2 **T-32231** - Raul Eleazar Chavez dba Las Americas (LaPlace, Louisiana), ex parte. In re: Application to increase tariff rates for LPSC 6218.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by commissioner Boissiere, with Commissioners Field and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to exert its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Boissiere, seconded by Commissioner Skrmetta, with Commissioners Field and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to accept the Staff Recommendation and approve the Stipulated Agreement whereby: 1) The Carrier's proposed tariff is approved; 2) The Carrier file a copy of the proposed tariff (including the following clarification addition for Part G in the tariff), to the LPSC Transportation Division upon issuance of the Order herein. Part G and the clarification are as follows:

"G) Any other non-listed trip will be arranged when ordered."

"To clarify part G of my proposed tariff, I will charge the customer \$2.30 per mile or a \$60.00 minimum charge (whichever is higher) for any other non-listed trip."

Ex. 3 **R-30297** - Louisiana Public Service Commission, ex parte. In re: Discussion and possible vote on the exemption of motor carriers of waste from having to prove public convenience and necessity when applying for a common carrier certificate or contract carrier permit, but maintaining the requirement that said carriers register with the Commission and satisfy all rules, regulations and requirements of the Commission, including proof of fitness to operate. In addition, discussion on the burden of proof required in proving public convenience and necessity and Rule 33 of the Rules of Practice and Procedure of the Louisiana Public Service Commission, Special Rules Applicable to Contested Operating Authority Cases and possible vote on changes in the present burden of proof and Rule 33 and any other rule applicable to the trial of public convenience and necessity cases.

In re: Discussion and possible vote on Amending Rule 33 of the LPSC Rules of Practice and Procedure.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, with Commissioner Field concurring and Commissioners Boissiere and Skrmetta objecting, the Commission voted to accept Staff Recommendation and adopt Option One as proposed.

Commissioners Holloway and Skrmetta directed Staff to open a rulemaking to look into amending General Order # 2 dated 1921 and come up with better scheme for filing tariffs, including specifically looking into either doing away with completely or making industrial

work tariffs very broad; expediting the processing of requests, and look into different methods of approving tariffs in order to allow for a competitive reduction of pricing.

Ex. 4 **U-29764** - Louisiana Public Service Commission, ex parte. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

In re: Request for clarification from Staff that Staff's investigation into the effects of Entergy Louisiana, LLC and Entergy Gulf States, L.L.C. should be conducted in this docket.

The Commission directed Staff to conduct the investigation into ELL and EGSL's possible withdrawal from the System Agreement in the course of Docket No. U-29764.

Ex. 5 **U-31125** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application for certification of nuclear power plant siting and licensing activities.

In re: Discussion and possible vote on ALJ Final Recommendation.

In re: Oral Argument requested by LEUG, Entergy and Staff.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, with Commissioners Campbell and Boissiere concurring and Commissioner Holloway objecting, the Commission voted to pass this item to next month.

Ex. 6 **U-32148** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, LLC, ex parte. In re: Joint Application Regarding Transfer of Functional Control of Certain Transmission Assets to the Midwest Independent Transmission System Operator, Inc. Regional Transmission Organization, for an Accounting Order Deferring Related Implementation Costs and Request for Timely Treatment.

In re: Discussion and Possible Vote on Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. Application to join Midwest ISO.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, with Commissioners Campbell and Field concurring and Commissioner Holloway temporarily absent, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, with Commissioner Campbell and Field concurring and Commissioner Holloway temporarily absent, the Commission voted to adopt the Staff recommendation and that the Companies' request in this docket, which seeks authority to transfer functional control of their transmission systems to the MISO RTO, be found to be in the public interest subject to the contingencies and conditions that have been agreed upon by the Companies and Commission Staff as set forth in Revised Exhibit EGSL ELL No. 20 filed into the record of this docket on May 21, 2012. It is further ordered that subject to those contingencies and conditions, the Companies' request complies with the public interest requirements of the 1994 General Order of this Commission, and that the request for a deferral order related to the cost of the pursuit of MISO membership should be approved.

Ex. 7 **U-32219** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Rate Stabilization Plan Filing for Test Year 2011.

In re: Discussion and Possible Vote on Draft Order Accepting Unopposed Joint Report.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Report and Draft Order as filed into the record on May 11, 2012.

Ex. 8 **U-32240** - Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC., ex parte. In re: Staff's Audit Report regarding first annual review of the federal environmental adjustment clause

filings of EGSL and ELL.

In re: Discussion and possible vote to Adopt Staff Recommendation.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Audit Report filed February 13, 2012; and consider a purchase price benchmark when Docket No. R-29380 Sub A is reopened to address costs associated with CSAPR.

Ex. 9 **U-32300** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval of Interim Extension of Independent Coordinator of Transmission Arrangement and Change of Services Provider from Southwest Power Pool, Inc. to Midwest Independent Transmission System Operator, Inc.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to defer this matter to the June 22, 2012 B&E at which time the Commission will hear the matter pursuant to Rule 57. It is further ordered that any parties who desire to file comments do so by June 1, 2012 and that any reply comments would be due by June 8, 2012.

Ex. 10 **U-32275** - Dixie Electric Membership Corporation ("DEMCO"), ex parte. In re: Petition Requesting Certification of Power Supply and Service Agreement, Waiver of Market Based Mechanism RFP Process, Implementation of Rate Moderation Plan, and Expedited Relief for Dixie Electric Membership Corporation ("DEMCO").

In re: Discussion and possible vote to hire outside consultant.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted retain the consulting firm of J. Kennedy and Associates, Inc. for a budget of \$17,000 in professional fees plus expenses not to exceed \$1,000, for a total budget of \$18,000 to assist Staff in this matter.

Ex. 11 **S-32130** - Prairie Ronde Water System, Inc., ex parte. In re: Request for an increase in water rates (Non-Profit System).

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, with Commissioners Boissiere and Skrmetta concurring and Commissioner Field temporarily absent, the Commission voted to accept the Staff Recommendation as filed into the record on May 7, 2012, with one amendment: the minimum charge for residential customers consuming 2,000 gallons be increased to \$14.00 and not the Staff recommended \$15.00.

Ex. 12 **S-32268** - Beauregard Electric Cooperative, Inc., ex parte. In re: Request for a Letter of Non Opposition regarding the borrowing of long-term funds from the National Rural Utilities Cooperative Finance Corporation.

In re: Discussion and possible vote on request for letter of non-opposition.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, with Commissioners Boissiere and Skrmetta concurring and Commissioner Field temporarily absent, the Commission voted to accept the Staff Recommendation and issue the letter of non-opposition subject to the following conditions: 1) That BECI submit to the LPSC Economics Division a copy of the loan agreement signed both by BECI and by the Federal Financing Bank, setting out the loan terms within 30 days of closing; 2) That the Commission makes no determination regarding the reasonableness of the actual interest rates applied to this borrowing; 3) That BECI agrees to maintain its records regarding the loan agreement for a period of not less than five years after the loan is repaid "in full"; 4) That BECI will not apply to the Commission for an increase in its rates and charges as a result of the impact that this additional borrowing might have on its rate of return on equity, rate base and overall results of operation for its systems; 5) That the loan funds will only be used in accordance with 7 C.F.R. 1726, "Electric System Construction Policies and Procedures," as set forth by the Rural

Utilities Service; and 6) That the Commission reach no conclusions regarding any of the Company's representations and reserve the right to review the ratemaking treatment of this proposal in its review of subsequent rate proceedings.

Ex. 13 **R-31417** - LPSC, ex parte. In re: Re-examination of the Commission's Net Energy Metering Rules found in General Order No. R-27558, dated November 30, 2005 (the "Net Metering Order")

In re: Discussion and possible vote to hire outside consultant.

Last month's Ex. 21.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to retain the consulting firm of WHN Consulting for a budget of \$48,700 with no expenses to be charged, to assist Staff in this matter.

Ex. 14 **R-31825** - Louisiana Public Service Commission, ex parte. In re: Possible Amendment to Section 501 A (c) and (e) of the Regulations for Competition in the Local Telecommunications Market (White Page Directory Distribution Requirement).

In re: Discussion and possible vote on Staff Recommendation.

Last month's Ex. 13.

Commissioner Field offered a motion to, after incorporation of the following additional provision, accept Staff's recommendation as filed March 23, 2012: Any TSP implementing an "opt-in" program shall rely on the most recent election of a customer who has chose to "opt-in" to receive the white pages residential directory for a period of three (3) years, at which point the TSP may implement a subsequent "opt-in" program for the publication cycle following the delivery of the third annual white pages residential directory to the customer. A TSP is not required to rely on a customer election to "opt-in" when such customer has subsequently moved, changes TSP provider, or effectively "opts-out" of delivery of the white pages residential directory within the three year period of the prior election by the customer. Commissioner Holloway seconded this motion; however Commissioner Campbell objected.

Commission Campbell then offered a substitute motion which would incorporate Staff's Recommendation along with Commissioner Field's amendment, only exempting District 5 from the entire rule. This motion died for lack of a second.

Commissioner Field's original motion was called to a vote, with Commissioner Holloway seconding, Commissioners Boissiere and Skrmetta concurring and Commissioner Campbell objecting, the Commission voted to pass Commissioner Field's motion.

Ex. 15 **X-32288** - Louisiana Public Service Commission, ex parte. In re: Examination of Past, Present, and Future Natural Gas Pricing.

In re: Report by Utilities.

Last month's Ex. 17.

PASSED

Ex. 16 Discussion and possible vote to amend General Orders dated December 28, 2000 and April 23, 2001.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the following motion: The Louisiana Public Service Commission moves to replace the fines provided for in General Order dated December 28, 2000, with a late fee of \$500.00 per offense. It is further moved that in the interest of efficiency and equal treatment for all companies regulated by the Louisiana Public Service Commission, that General Order dated April 23, 2001, be amended to reclassify the fine of \$500.00 to a late fee of the same amount for all companies regulated by the Transportation Division.

Ex. 17 LPSC, ex parte.

In re: Discussion and Possible vote to adopt an Order providing: 1) all over-collected Inspection and Supervision Fund Fees, Motor Carrier Fund Fees and Do Not Call Fund Fees should be refunded to Commission-jurisdictional ratepayers, and 2) Staff shall work on establishing proposed rules and mechanisms for refunding such over-collections.

PASSED

Ex. 18 Report from Cleco, Entergy and Lafayette Utilities System regarding Acadiana Transmission Project.

At the request of Commissioner Field.

Terry Huval, Director of Utilities in Lafayette; Keith Crump, on behalf of Cleco; and Mark Kleehammer and Joe Payne, on behalf of Entergy reported to the Commission on the completion of the Acadiana Transmission Project. Patrick Clarey, on behalf of FERC stated his appreciation for the LPSC's leadership in taking charge of this project and further commended the LPSC for providing a great example to other regulators on a multi-jurisdictional project. Mr. Cleery also shared the FERC's appreciation for the LPSC's work in reaching out and helping form the ERSC.

Ex. 19 Discussion of U.S. Postal Service mail delivery times, their impact on late-payment fees charged by utilities, and related LPSC policies.

Commissioner Campbell directed Staff to check into the utilities' policies regarding late fees for payments mailed in and how that relates to the cut backs in the US Postal Service. Commissioner Skrmetta further directed Staff to discuss with the Post Master General in Louisiana to find out what their plans are in this state and how that will affect bill payment.

Ex. 20 Directive to Staff to open a rulemaking docket to establish a standard rate of return on equity for investor-owned electric and gas utilities. This standard will be used as the authorized return for those utilities within 180 days after it is established absent a filing and demonstration by any affected utility that a different rate is warranted. Among other factors the established standard return should take into consideration the following recent developments: stabilization of capital markets, lower interest rates and long-term treasury yields, reduced risk to utilities resulting from advance approval of major capital additions, increased use of riders allowing immediate recovery of expenditures, and the use of securitization to fund storm repairs and cancellation costs. Staff is additionally directed to issue RFPs within 30 days seeking outside consultants and counsel to assist in this docket.

At the request of Commissioner Campbell.

Last month's Ex. 16

PULLED

Ex. 21 1) Reports
2) Resolutions
3) Discussions

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adopt Resolution 2012-03 as read into the record supporting Commissioner Lisa Edgar of the Florida Public Service Commission as Second Vice President of NARUC for 2012-2013.

Commissioner Skrmetta directed Staff to investigate and report back on the possibility of bringing federal diversity actions against offenders of the Do Not Call Program.

Commissioner Field directed Staff to examine Entergy's Rate of Return for the gas division during the next rate case.

Commissioner Campbell directed Staff to report on other jurisdictions' rate of return and return on equity allowance.

Ex. 22 **S-32284** - T-Mobile Central, LLC, ex parte. In re: Application for Conditional Designation as an Eligible Telecommunications Carrier for the Purpose of Establishing Eligibility to Participate in the Mobility Fund Phase I Auction on September 27, 2012 at the Federal Communications Commission and Request for Expedited Consideration.

In re: Discussion and possible vote on Staff Recommendation

At the request of Commissioner Campbell.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and designate T-Mobile as an ETC.

Ex. 23 **U-32315** - Claiborne Electric Cooperative, Inc., ex parte. In re: Application for Approval of Formula Rate Plan and Initial Revenue Adjustment.

In re: Request of Commission Staff to retain J. Kennedy & Associates, Inc. to assist Staff as Outside Consultant.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to retain the consulting firm of J. Kennedy & Associates, Inc. to assist Staff with the review of Claiborne Electric Cooperative, Inc.'s Application for Approval of Formula Rate Plan and Initial Revenue Adjustment for a total budget not to exceed \$21,700.00, including fees of \$20,900.00 and expenses of \$800.00.

Ex. 24 LPSC, ex parte. In re: Review of 2012 EGSL Formula Rate Plan (2011 Test Year) Filing

In re: Discussion and Possible vote to hire Henderson Ridge Consulting to assist Staff in the FRP Review.

At the request of Commissioner Skrmetta.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain Henderson Ridge to assist Staff with the review of EGSL's 2011 FRP filing for a total budget of \$43,225, which includes professional fees not to exceed \$39,625 and expenses not to exceed \$3,600.

MEETING ADJOURNED

The next Business and Executive Session will be held June 22, 2012 at 9:00 a.m. in Baton Rouge, Louisiana.